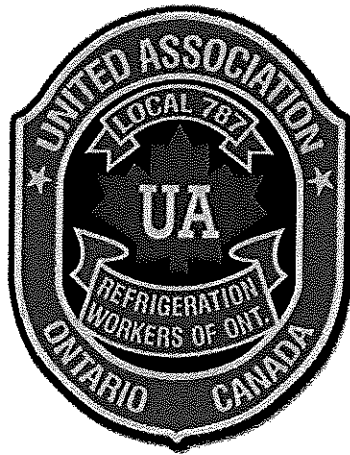


Submission to the Ministry of Labour

'Changing Workplace Review'



*70% of work
is non-construction*

Introduction

The United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada Local 787 represents heating, ventilation, air conditioning, refrigeration, and maintenance workers in the Province of Ontario. Today our membership is 3218 strong, working in the construction, service, maintenance, retrofit, and repair sectors of comfort cooling, heating, process cooling and ammonia systems for cold storage and ice rinks, pharmaceutical plants, supermarket refrigeration, facility and building management.

Although classified as a Construction Trade Union, we are not the typical Construction Trade Union. A large portion of our membership works within the service sector of the HVAC&R industry, under varying conditions.

These service personnel work out of service vans by themselves and, many times, for very long hours, all while being exposed to electrical, chemical, mechanical and extreme temperature dangers, just to name a few.

Fortunately for the 3218 members that I represent in our industry, they have a voice and a support system to guide them. There are thousands of other unrepresented workers that do not have the time or the energy to navigate the complicated and vague Employment Standards Act. In my submission, I hope that I can address my members concerns and, at the same time, make our industry a better place to work.

Thank you for your time and I look forward to working with the Ministry during this process.

Andrew Tarr
Business Manager
UA Local 787

Over the years of working in the HVAC&R industry, the industry has changed dramatically and not for the better. With globalization it is becoming more and more common that international companies, or investors, are entering the Ontario market, bringing with them their own values and ideals. This shift in culture has opened the door to corporations being able to manipulate and intimidate the workforce, who tend to be younger or newly immigrated; the most vulnerable types of workers. We have been led to believe that these changes are important for companies to succeed and that the regulations inhibit the ability to make a profit and take away the flexibility that employers need to grow.

I think that reduction of regulations has started us down a slippery slope, as they are not doing what should be intended. Instead of providing us the flexibility and job security that was promised, we are seeing an increase of lower paying jobs, less skilled jobs, income disparity and less job security.

The Employment Standards Act set out a minimum standard for employees in Ontario, but it can come across very confusing. I come here today to discuss one portion of the document, and that is Part VII, "Hours of work and eating periods."

As I stated in my introduction, I represent a group of service personnel that work in varying conditions while maintaining HVAC&R equipment. As part of their responsibilities, they are required to respond to emergency service calls. These may include no-heating, no-cooling, and water leaks to name a few. This emergency service does not stop when their normal work shift ends. It can continue well past their regular 8 hour day and, in most cases, is not planned. The nature of our industry also requires that the employees provide after-hours on-call service. This on-call service requires the employee to carry a pager. At times, the employees are expected to work an excess of 18 hours a day, several days in a row.

As you can imagine, having a person work such long hours is dangerous, but further to providing the emergency service, these employees could end up driving long periods of time, getting to and from the emergency service calls. Unfortunately, this is an item that, even though there is a "maximum hours of work" allowed under Employment Standards, you will find is not clear and allows for agreements amongst the employer and employee.

Limit on hours of work

17. (1) Subject to subsections (2) and (3), no employer shall require or permit an employee to work more than,

- (a) eight hours in a day or, if the employer establishes a regular work day of more than eight hours for the employee, the number of hours in his or her regular work day; and
- (b) 48 hours in a work week. 2004, c. 21, s. 4.

Exception: hours in a day

(2) An employee's hours of work may exceed the limit set out in clause (1) (a) if the employee has made an agreement with the employer that he or she will work up to a specified number of hours in a day in excess of the limit and his or her hours of work in a day do not exceed the number specified in the agreement. 2004, c. 21, s. 4.

Exception: hours in a work week

- (3) An employee's hours of work may exceed the limit set out in clause (1) (b) if,
- (a) the employee has made an agreement with the employer that he or she will work up to a specified number of hours in a work week in excess of the limit;
 - (b) the employer has received an approval under section 17.1 that applies to the employee or to a class of employees that includes the employee; and
 - (c) the employee's hours of work in a work week do not exceed the lesser of,
 - (i) the number of hours specified in the agreement, and
 - (ii) the number of hours specified in the approval. 2004, c. 21, s. 4.

Same, pending approval

(4) Despite subsection (3), an employee's hours of work may exceed the limit set out in clause (1) (b) even though the employer has not received the approval described in clause (3) (b), if,

- (a) the employee has made an agreement described in clause (3) (a) with the employer;
- (b) the employer has served on the Director an application for an approval under section 17.1;
- (c) the application is for an approval that applies to the employee or to a class of employees that includes the employee;
- (d) 30 days have passed since the application was served on the Director;
- (e) the employer has not received a notice that the application has been refused;
- (f) the employer's most recent previous application, if any, for an approval under section 17.1 was not refused;
- (g) the most recent approval, if any, received by the employer under section 17.1 was not revoked;
- (h) the employer has posted and kept posted a copy of the application in at least one conspicuous place in the workplace where the employee works, so that it is likely to come to the employee's attention; and
- (i) the employee's hours of work in a work week do not exceed any of,
 - (i) the number of hours specified in the application,
 - (ii) the number of hours specified in the agreement, and
 - (iii) 60 hours. 2004, c. 21, s. 4.

In addition to the Employment Standards Act leaving capacity for the employer and employee to negotiate the maximum hours of work in a day and week, it allows for an employer to require that an employee work beyond the maximum hours in a day, under exceptional circumstances, which in our industry and other service industries is being applied very loosely.

Exceptional circumstances

19. An employer may require an employee to work more than the maximum number of hours permitted under section 17 or to work during a period that is required to be free from performing work under section 18 only as follows, but only so far as is necessary to avoid serious interference with the ordinary working of the employer's establishment or operations:

- 1. To deal with an emergency.*
- 2. If something unforeseen occurs, to ensure the continued delivery of essential public services, regardless of who delivers those services.*
- 3. If something unforeseen occurs, to ensure that continuous processes or seasonal operations are not interrupted.*
- 4. To carry out urgent repair work to the employer's plant or equipment. 2000, c. 41, s. 19.*

This is a major concern within the HVAC&R service industry and other similar service industries. The wording is not clear and is commonly twisted to suit the employer's situation.

I don't think that the intention of Employment Standards is to allow an employee to work unlimited hours, and in some industries, such as manufacturing or retail stores, this may never be an issue. However, for the HVAC&R and other service industries it is an issue, for the simple reason that while other industries go home for the night we are expected to continue, so the equipment is ready for the next day.

Part VII of the Employment Standard Act is to set the hours of work in a day. I recommend changing the wording so it clearly states the safe maximum hours allowed in a day, the safe maximum hours in a week, a safe minimum amount of hours required between shifts and, if there is to be an emergency provision, clearly state the conditions which define an emergency. An emergency provision should be limited to prevention of loss of life, loss of food at major distribution centers, and other large scale catastrophic situations.

At the back of this submission I have included two articles that have reported the deaths of HVAC&R workers over the last few years; many other injuries caused from fatigue go unreported.

Labour Relations Act

Purposes

2. *The following are the purposes of the Act:*
 1. *To facilitate collective bargaining between employers and trade unions that are the freely-designated representatives of the employees.*
 2. *To recognize the importance of workplace parties adapting to change.*
 3. *To promote flexibility, productivity and employee involvement in the workplace.*
 4. *To encourage communication between employers and employees in the workplace.*
 5. *To recognize the importance of economic growth as the foundation for mutually beneficial relations amongst employers, employees and trade unions.*
 6. *To encourage co-operative participation of employers and trade unions in resolving workplace issues.*
 7. *To promote the expeditious resolution of workplace disputes. 1995, c. 1, Sched. A, s. 2.*

In 1996 the Mike Harris Government changed the Labour Relations Act and revoked Bill 40, a bill that limited the use of replacement workers during legal strikes or lockouts. This move was made to weaken the Union's bargaining power by allowing replacement workers, thereby reducing the need for the employer to bargain fairly. Fortunately a majority of negotiations are concluded without labour disruptions and, if there is a disruption, it is for a very short period.

The possible use of replacement workers undermines the whole purpose of the Labour Relations Act and should be eliminated.

Featured



Harrow man found dead after workplace accident



Motorists will soon get to drive on part of Herb Gray Parkway



Women interviewed for human trafficking investigation



Food service at WRH's Ouellette Campus is getting rave reviews



Aftermath in Essex County of powerful storms



Leamington obstetrics plan gets the thumbs up

Mechanical worker found dead at Tecumseh tool repair shop: MOL

CTV Windsor

Published Wednesday, June 24, 2015 12:30PM EDT

Last Updated Wednesday, June 24, 2015 6:42PM EDT

A workplace death in Tecumseh is being investigated by OPP and the Ministry of Labour.

Ministry of Labour spokesperson William Lin says a worker from Pannunzio Mechanical died while working on a job at New-Tec Tool Ltd.

The Harrow man went to the top the building to fix the air conditioning unit at 5345 Brendan Ln in Oldcastle.

PHOTOS



Ministry of Labour is investigating a workplace death at New-Tec Tool in Oldcastle, Ont., on June 24, 2015. (Rich Garton / CTV Windsor)

The company truck was still onsite Wednesday morning when employees from the tool company returned.

They discovered the mechanical worker on the roof with no vital signs, says Lin.

OPP are on also on scene.

MYNEWS »

If you are on the scene of breaking news and capture it with your mobile device, share your pictures or video with MyNews.

Share your news photos/video

Login



Write a comment

0 Comments

Sort Subscribe

Use of this Website assumes acceptance of Terms & Conditions and Privacy Policy

Worker killed in rooftop incident

[CBC News](#) Posted: Feb 25, 2013 6:24 AM ET Last Updated: Feb 26, 2013 12:36 PM ET

A man has died when he was electrocuted in an industrial accident Sunday night on the rooftop of a McDonald's restaurant on Meadowlands Drive.

Emergency responders were called at 10:50 p.m. to the restaurant at 888 Meadowlands Dr. near Prince of Wales Drive and found a man in his 30s on the roof.

Firefighters and paramedics said they believe the man may have suffered an electric shock while working on refrigeration equipment on the roof.

Firefighters shut down power to the unit and paramedics performed CPR before the man was lowered from the roof with a basket and an aerial ladder.

He was rushed to hospital where he later was pronounced dead.

The worker was with Shouldice Mechanical Inc. in Carp, the Ontario Ministry of Labour confirmed.

The Ministry of Labour is investigating the death.

Explore CBC

[CBC Home](#)

[TV](#)

[Radio](#)

[News](#)

[Sports](#)

[Music](#)

[Kids](#)

[Local](#)

[Documentaries](#)

[Comedy](#)

[Books](#)

[Parents](#)

[Aboriginal](#)

[Weather](#)

[CBC Connects](#)

[Digital Archives](#)

[Games](#)

[Contests](#)

[Site Map](#)

Stay Connected